

MINUTES
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD MEETING

288 North 1460 West
Cannon Building, Room 125
Salt Lake City, Utah
January 19, 2001
9:30 p.m.

UTAH WATER QUALITY BOARD MEMBERS PRESENT

K.C. Shaw, Chair	Ron C. Sims
Ray M. Child	Dianne R. Nielson
Douglas E. Thompson	Nan W. Bunker
Robert G. Adams	J. Ann Wechsler
Neil Kochenour	

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Don Ostler, Faye Bell, Walter Baker, Jay Pitkin, Tim Beavers, Fred Pehrson, Larry Mize, Mike Reichert

OTHERS PRESENT

<u>Name</u>	<u>Organization Representing</u>
William Stubbs	GSLA affiliated
Tom Herbert	E.A. Miller
Scott Rogers	Aqua Engineering
Paul Dremann	Trout Unlimited
Patrick Noteboom	American West Analytical Lab
Paul Ellingson	American West Analytical Lab
Stan Johnson	Bluff, UT 84512
Reed Fisher	WW Operator Cert. Council
Steve Harris	WW Operator Cert. Council
Fred Nelson	Attorney General Office
Mark Teusher	Cache County
Thad Erickson	Cache County
Mike Lowe	UGS
Janae Wallace	UGS

Chairman Shaw called the Board meeting to order at 9:35 a.m. He welcomed those in attendance and invited the members of the audience to introduce themselves.

APPROVAL OF MINUTES OF THE NOVEMBER 17, 2000 MEETING

Mr. Shaw noted the following corrections: 1) Page 4, 2nd dash 3rd line down “The system has less. A promise”, should read “The system has less promise”; 2) Page 8, bottom of Action Taken, Ms. Wechsler name was misspelled. 3) Page 5, 3rd line up from the bottom “Mr. Ostler stated that there has been much more communication on permitting (should say than that) instead of “then that”.

Action Taken: **It was moved by Ms. Wechsler, seconded by Dr. Sims and unanimously carried to approve the minutes of the November 17, 2000 meeting with the above noted corrections.**

DIVISION BUSINESS

- 1) **Operator Certification Council Appointments (ACTION ITEM):** Mr. Baker directed the Boards attention to Page 2.8, which is a memorandum stating “Recommendations for Appointments to the Operator Certification Council”. Mr. Baker explained that the terms of three members of the council have expired. Mr. Baker stated that both Steve Harris and Reed Fisher have served three terms (nine years) on the council and presented each of them a certificate and plaque of appreciation for their service on the council. Mr. Baker proposed to fill the vacancies on the council as follows: Jeff Richins to fill the municipal wastewater management vacancy; Gordon Champneys, to fill the private sector vacancy and Jon Adams to be re-appointed as an operator representative.

Action Taken: **It was moved by Mayor Thompson, seconded by Dr. Sims and unanimously carried to approve the proposed changes to the Operator Certification Council.**

- 2) **Petition for Cache County Aquifer Classification. Permission to Hold Public Hearing (ACTION ITEM):** (Attachment I Handout) Mr. Mize explained Cache County’s petition to the Board for Classification of Aquifer. The administrative process requires the petitioner to submit information to the Board and the Division which is then evaluated against the the requirements of the rule. The County has done this, and the petition is included in the Board packet. Mr. Mize introduced Mark Teusher and Thad Erickson of Cache County to explain some of the aspects of the petition. The purpose of this classification is to define the quality and nature of the groundwater aquifer. Once the aquifer is defined, the municipalities can begin to take steps to preserve it. This classification will be used by the various municipalities to help develop ordinances to protect their wellhead zones, protect the groundwater and identify potential pollutant sources. Mr. Mize introduced Mike Lowe and Janae Wallace of the UGS to present the data upon which the classification is based. He referred to the map included in the Board packet.

Action Taken: **It was moved by Ms. Bunker, seconded by Ms. Wechsler and unanimously carried to direct staff to hold a public hearing in Cache County.**

DISCUSSION ITEMS:

1. **Update of the Nonpoint Source, Stormwater & On-Site Disposal System Loan Program** - Mr. Baker updated the Board on the authority the Water Quality Board now has to make loans on stormwater projects, individual on-site disposal projects and non-point source projects. Since the last meeting of the Board, staff have developed a Memorandum of Understanding (MOU) with the Department of Agriculture and Food (DAF). The MOU establishes a process for administration of loan billings, determining the credit worthiness of the applicant and review of applications for non-point source and individual on-site wastewater disposal loans. Mr. Baker said that staff will be prepared to present draft rules to the Board in March and begin rulemaking in April. Mr. Baker said that staff have met with the environmental health directors of the local health departments, the Utah Association of Conservation Districts (UACD), and staff responsible for the ARDL and nonpoint source programs at DAF. He said that it is the staff's intent to recommend 0% interest loans and not have a loan pooling date. The procedure would be to have DAF staff receive the applications and make recommendations to the Division on where monies are needed. For projects less than \$150,000, the Executive Secretary would authorize the loans, if the project is greater than \$150,000 the Water Quality Board would authorize the loan. Technical assistance would be provided by the UACD, USDA, and the DAF. CAFO's would not be eligible. On the stormwater side, we would start out with around \$500,000 per year and the interest rate would be based at 60% of the 20 year treasury bond rate. Stormwater projects would be prioritized. Concerning onsite wastewater disposal systems, staff will be working with the county health departments to have them be the vehicle to receive applications and make a determination of project need. Only failing existing systems would be eligible for this funding.
- 2.. **Discussion of Federal/State Discharge Permit Rules Pertaining to Bypasses** - Mr. Pehrson discussed proposed changes to the rules that govern the UPDES discharge permit program, and specifically, rules that address anticipated bypasses of waste water treatment facilities. Mr. Pehrson said that in the past, through our evaluation process, we have been able to avoid bypasses or at least provide partial treatment. He discussed the recent raw sewage bypass into the lower Weber River. He said that staff felt that Central Weber SID had complied with the existing rules, but could have made some improvement on notifying the downstream users. Since that bypass, staff has been involved in a number of meetings discussing bypasses and improving the way they are handled. The current state rules are the same as the federal rules, as required to maintain delegation of the NPDES program. Under state law, the Division is prohibited from adopting rules which are more stringent than the federal rules unless it can be documented that more stringent rules are necessary to protect public health and the environment. Mr. Pehrson said that the proposed rule amendments describe what is necessary to get approval for a bypass. Currently, anticipated bypasses are not necessarily required to have prior approval. A facility needing a bypass need only justify that the bypass is unavoidable and that there are no alternatives to a bypass. Mr. Pehrson said that staff feels that the current rule is not sufficient. Staff also feels the advance notification in the current rule, which only requires a 10 day advance notification, is not adequate to complete the necessary evaluation. Staff feels that approximately 90 days would be needed to complete this effort. Mr. Pehrson noted that there is no requirement in the current rules that requires a facility to notify downstream users of a bypass. As part of the approval process, we would like to have a check point that they demonstrate to us that this notification process had been done and we would then give the approval. Mr. Pehrson discussed several items listed in paragraph D which would be needed in order to request and receive an approval for a bypass. A facility wanting approval for a bypass must submit a notification plan to the downstream users, and complete a water quality assessment plan which would include an evaluation of a water body and a sampling and analysis plan. He said that it is the staff's intent to take the proposed draft rule to stakeholders and interested parties for public input. Following public comment, the rule will be brought back to the

Board for formal rulemaking. Dr. Kochenour asked if these rules had been in place at the time of the October bypass, could the bypass have been avoided. Mr. Pehrson responded that staff agreed the bypass was unavoidable, but it could have been administered better. Mayor Thompson questioned if the 90 days review process would create a hardship. Mr. Pehrson said they would be flexible in cases of emergency. Mr. Child agreed the changes would address the forewarning issue, but questioned some of the wording on the approval process. Mr. Pehrson explained the intent of the bypass request is to provide a demonstration that other alternatives have been evaluated. Mr. Ostler emphasized the rule is to stipulate advance lead time notice so that staff can receive input from those affected on upcoming projects.

3. **Update on the Status of the Rulemaking Items After Final Public Comment:** Mr. Beavers notified the Board that the final rules presented at the November Board meeting went out for a final public notice period. No comments were received and the rules became effective on Monday, January 15th. Concerning the discharging lagoon rule changes, Mr. Beavers said that staff are planning to send a letter and a copy of the rule changes to all the discharging lagoon facilities, along with an application to apply to the Executive Secretary for new limits.

STAFF REPORTS

1. **Discussion of Status of State Strategy to Reduce Pollution from Animal Feeding Operations:** Mr. Reichert gave the Board an update on the CAFO strategy. The Strategy calls for an education and outreach component. Several months ago a brochure was developed to address this need. He said that staff are currently in the process of publishing a new brochure which will discuss comprehensive nutrient management plans which will be required for Utah operations. Staff have completed a prioritization of the state's watersheds which is being used by those conducting the inventory of animal feeding operations to help guide them on where to begin on the inventory efforts. Last year there was some training by the Utah Association of Conservation Districts for staff and others who are now beginning the process of inventory. Ongoing training will be made available as more districts are brought into the process. The strategy also calls for guidance on Nutrient Management Plans. National guidance was prepared by USDA and the NRCS in Utah has prepared some additional guidance. Kerry Goodrich is the lead for that effort. Mr. Reichert noted that a general UPDES permit for CAFO's has been adopted. Staff are now beginning the process of issuing permits under that coverage. The Farm Bureau is helping with the effort of working with permittees and have received a partial list of concentrated animal feeding operations in the state. We have 30 names and anticipate that list might double. The Division of Water Quality has received approval for an additional FTE to help with the CAFO program. Contracts between DEQ and Utah Dept. of Agriculture and Food were approved in October. The Utah Association of Conservation Districts has the lead, jointly with Farm Bureau, and are writing contracts with local conservation districts and some of the commodity groups to conduct the inventory. Mr. Reichert gave an overview of what funds are available to help the problem facilities address water quality issues. Dr. Kockenour questioned the five years a facility has to correct the problem. Mr. Ostler explained that the strategy contains trade-offs, one of which is allowing the time for unacceptable conditions to get corrected. He noted that this partnership has enabled thousands of outside man-hours to go into these assessments. By working together it enables us to find and fix more problems more quickly than would otherwise be possible.
2. **Report on Proposed New Federal CAFO Regulations -** Mr. Ostler stated that Utah's CAFO strategy was precipitated by a national strategy to address large animal feeding operations. EPA has now proposed new rules as of December 2000 which create some problems for us. Current rules

address large animal feeding operations of 1000 or more animal units. Under that criteria there are 2,500 permits nationally. EPA is proposing to lower the bar for mandatory permitting to include much smaller operations from 500 to 1000 animal units. This change would mean that a lot more animal feeding operations would have to be regulated under permits. A second proposal is to lower the bar from 1000 animal units to 300, plus some additional risk factors such as proximity to a stream. These rule changes can increase the number of permits to over 40,000 nationally which would be a significant increase in workload. The third proposal is to issue a co-permit with contract growers. EPA's rule includes provisions that individual grower would have a co-permit so both entities maintain responsibility for the operation. The fourth proposal is specific requirements regarding spreading manure. Mr. Ostler said that the Division's partners in the CAFO effort are in agreement not to delay the ongoing effort waiting for these rules to pass. Six of EPA's 10 regions have submitted letters that they are not in favor of the current proposals.

3. **Legislation and Budget Issues** - Mr. Ostler updated the Board on legislative and budget issues. He said that DEQ has submitted a budget request to maintain the present budget along with the associated cost of living increases. The Governor also acknowledged our request for funding to help implement new federal mandates for stormwater. Under this mandate, 56 new communities will have to be permitted and will need help to implement permits. The Division has asked for funding of one FTE. Following the first year, the recommendation is to develop a fee program to permanently fund the position and activity. The proposal still needs to go to the legislature. Dr. Kochnour asked Mr. Ostler what kind of fees would be necessary to make this a self supporting position. Mr. Ostler responded that they had done a rough estimate that it would take about \$70,000 year to support the position. Out of 60 communities, if each paid the same regardless of size, the cost would be approximately \$1,200 per year.

With respect to legislation, Mr. Ostler mentioned one bill being supported by DEQ and the local health departments (LHD): HB14 "Certification requirements for installation, design and maintenance underground wastewater disposal systems". The bill would require anyone who designs, installs or maintains a wastewater system be certified. The bill would also authorize the WQ Board to charge a fee of \$25.00 for new wastewater system installations which would go into a restricted account to help pay for the training and certification of individuals who install, design or maintain systems. Utah State University would provide the training. The bill is being amended to allow private home owners to install their own systems without certification if desired. The bill is receiving support and is on the calendar of the House.

Another bill (no number), sponsored by Senator Blackham, provides funding to help people with unacceptable conditions at animal feeding operation to do voluntary compliance and get it done quickly. The bill provides for a grant fund of \$500,000 per year for several years and establishes priority considerations to determine who get the funds.

OTHER BUSINESS

Mr. Pitkin gave a summary of responses to Peter Meier over the years on issues he has raised concerning the BOD test and the removal of nitrogen from sewage at municipal sewage treatment plants.

The next meeting of the Board was tentatively scheduled to be held on **February 16, 2001 at the Cannon Health Building Room 101.**

K. C. Shaw, Chairman